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SUBJECT: Commerce DAS Eric Stewart Visit to Rome

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[11.](#) (U) Summary and Introduction. On May 25, 2004, Deputy Assistant Secretary (DAS) of Commerce for Europe, Russia, and the Independent States Eric Stewart held discussions with Government of Italy (GOI) counterparts and met with local business representatives on trade and market access and compliance issues of intellectual property rights (IPR), pharmaceutical pricing, and the Trans-Atlantic Business Dialogue (TABD).

[12.](#) (U) DAS Stewart met with representatives of the Prime Minister's Office; Ministry of Productive Activities (Foreign Trade); Ministry of Economy and Finance (Treasury Police); Ministry of Culture; Business Software Alliance and film and music industry; and pharmaceutical company Eli Lilly. In addition, DAS Stewart was interviewed by Italy's business magazine "Italia Oggi" (Italy Today). During his meetings, DAS Stewart raised the issue of the Trans-Atlantic Barrier-Free Marketplace, which has been discussed informally among several Atlantic trade partners.

[13.](#) (SBU) DAS Stewart expressed U.S. concerns about IPR enforcement and the lack of dialogue between the pharmaceutical industry and GOI Ministries. The visit helped to underscore U.S. Government (USG) interest in resolving outstanding market and compliance problems with Italy and to strengthen contact with host government officials on trade and business issues of common interest. End Summary and Introduction.

[14.](#) (U) Prior to his meetings with Italian officials, DAS Stewart met with Ambassador Mel Sembler and was briefed by members of the country team. The DAS was accompanied to his meetings by officers and staff of the Economic and Commercial Sections.

ELI LILLY PHARMACEUTICAL COMPANY

[15.](#) (U) Karim Bitar, General Manager, Eli Lilly Italy, and Augusto Ciampi, Corporate Affairs Director, briefed DAS Stewart on the Italian business environment, based on their company's active involvement in the Rome-based Italian-American Pharmaceutical Group (IAPG), whose role is to facilitate U.S.-Italian dialogue on pharmaceutical matters. The Eli Lilly representatives reported that executives from their U.S. headquarters will meet with Ministry of Health, and possibly other, officials on/about June 10 on the issue of GOI investment policy.

[16.](#) (U) Like other U.S. pharmaceutical companies, Eli Lilly wishes to increase its dialogue with the Italian Government. Although the firm meets regularly with the Ministry of Health, Eli Lilly believes that contact with the Ministry of Economy and Finance and other agencies is also necessary. Eli Lilly maintains that GOI influence over pharmaceuticals is spread thin among various agencies and that discussions in Italy could be more informed. Embassy officers noted that upcoming local and European Parliament elections may have politicized recent discussions on pharmaceuticals.

[17.](#) (SBU) Over the long term, Eli Lilly is interested in investing about \$250 million in its Italy operations, which would create 400-800 new jobs locally. However, there are disincentives such as unfavorable tax rates and rigid price controls, which constrain the company's ability to reinvest its earnings in research and development (R&D) and innovate. (Normally the company seeks to invest about 20 percent of what it earns from its sales.) Eli Lilly would urge Italian authorities to let patient/customer needs and science drive its pharmaceuticals policy. As an example, the company representatives cited the delay in bringing to the local market new, effective drugs that counter

osteoporosis and cancer caused by exposure to asbestos.

18. (U) Eli Lilly officers also complained that, in Italy, the Regions pay 40 percent of pharmaceuticals overspending, while the pharmaceutical industry pays 60 percent. They said that there is no "payback" system like this in the world and called for a more equitable sharing of costs. They also regretted that Italy is the only country in

Europe that does not have a "co-payment" system. This, according to them, contributes to the escalation of health care costs and complicates Minister of Economy and Finance Giulio Tremonti's efforts to contain central government spending. In addition, in Italy, unlike in the United States, generic (in contrast to patented) drugs are not popular. They noted that, within the IAPG, a full alignment on how to promote cost-saving generics remains difficult.

19. (U) DAS Stewart responded that the American Pharmaceutical Association, or Pharma, whose interests are represented by the IAPG in Italy, continues to explore with the USG establishing a U.S.-Italian bilateral working group to address the issues above. He agreed to discuss industry's concerns with the GOI. He encouraged Eli Lilly to continue to engage the Health Ministry and noted that, in many other European countries, such positive contact with the Ministry of Health is not possible. DAS Stewart also said that public misperceptions of the pharmaceutical industry hinder company efforts and urged that the company and the industry in general emphasize their contributions to good governance and corporate stewardship (e.g., in African nations).

ITALIA OGGI BUSINESS DAILY

110. (U) DAS Stewart was interviewed by Giampiero Di Santo, business editor of "Italia Oggi" (Italy Today), Italy's widely-circulated business daily. (A translation of the interview, which was published in the daily's Saturday, May 29, issue, will be transmitted separately.) DAS Stewart alluded to the importance and breadth of U.S.-Italian relations, confirmed by the recent visit of Prime Minister Silvio Berlusconi to the United States. DAS Stewart said that the USG wishes to resolve the few remaining differences on this front, as they represent billions of dollars and euros in missed business opportunities. He stated that reducing barriers and merging standards will bring Americans and Italians significant, tangible benefits.

111. (U) Asked about the U.S. Foreign Sales Corporation (FSC) policy and its deleterious effect on U.S.-E.U. trade relations, DAS Stewart replied that legislation is moving forward in the U.S. Congress. He expressed optimism that the issue will soon be resolved to everyone's benefit. He also pointed out that this issue is bigger than just FSC and that tax legislation of any kind is never easy to pass.

112. (U) The business editor inquired about American-Italian and U.S.-European trade priorities. DAS Stewart underlined the USG commitment to safeguard IPR, and noted Italy's interest in protecting its great cultural heritage and innovation. He explained how IPR protection can positively protect jobs, increase tax revenues, and reward creativity. He also maintained that the U.S.-Italian trade relationship, already robust, can be further expanded, for example, in the pharmaceuticals sector.

113. (U) In addition, DAS Stewart described the goals of the Trans-Atlantic Business Dialogue, citing, inter alia, the advantages of creating common international accounting standards, "one set of books," which would greatly enhance business services. Lastly, he reiterated the importance that the United States places on World Trade Organization negotiations and infrastructure and container security to foster trade.

BUSINESS SOFTWARE AND MUSIC AND AUDIOVISUAL INDUSTRY

114. (U) DAS Stewart met at the Embassy with Simona Lavagnini, Attorney, ALGV Avvocatti (representing the Business Software Alliance, or BSA); Enzo Mazza, Director General, Italian Music Industry Federation (Federazione Industria Musicale Italiana, or FIMI); and Luciano Daffarra, Secretary General, Anti-Piracy Audiovisual Federation (Federazione Anti-Pirateria Audiovisiva, or FAPAV) to review the Italian business environment with respect to IPR.

115. (U) The industry representatives told DAS Stewart that IPR enforcement remains a problem at the judicial level

because of the slow pace in processing cases and a tendency not to jail egregious violators (reportedly more than 90 percent of prison time is suspended). The representations claimed that, thanks to new, solid legislation, judges have the means to apply stiff penalties, but are not doing so. They gave the police high marks, but said that time devoted to anti-piracy efforts was insufficient. The Guardia di Finanza, or Treasury Police, can only raid so often.

16. (U) The software, film, and music representatives stated that the GOI has issued helpful press releases, including from the Prime Minister's Office, and will soon embark on an IPR leaflet campaign to increase public awareness. Unfortunately, a disconcertingly large number of Italians continue to think that buying illegal CDs is all right. Apparently, blank CDs enter Italy from East Asia legally, but are then used to "burn" music or programs illegally. Broadband communication is expected to increase by 200 percent per year, which will exacerbate the problem. Another area of continuing concern is the length of time required to obtain waivers from stickering requirements for software.

17. (U) In sum, the industry representatives were positive about existing legislation (except for that pertaining to trademarks, which dates back to 1922) and enforcement, but expressed concerns about the judicial process.

MINISTRY OF PRODUCTIVE ACTIVITIES (FOREIGN TRADE)

18. (U) At his meeting with Amedeo Teti, Director General (DG) for International Trade, Ministry of Productive Activities), DAS Stewart echoed USG appreciation for the GOI's steadfast support in the war against terrorism and in creating a stable and prosperous Iraq. The DAS said he was fortunate to have attended the recent dinner in Washington hosted by the Sons of Italy in honor of Prime Minister Berlusconi and was moved by the latter's remarks on the vitality of U.S.-Italian ties. DG Teti remarked on the closeness and resilience of American and Italian relations and observed that there are more than 25 million Italian-Americans.

19. (U) On IPR protection, DAS Stewart called for a redoubling of U.S. and Italian efforts, given its implications for tax revenues, commercial sales, and each nation's cultural patrimony. He suggested building on recent progress spurred by bilateral educational conferences and training of judges.

20. (SBU) DG Teti hoped that political leaders could do more to encourage understanding of the need for IPR protection, but noted difficulties in bridging cultural gaps. For example, the GOI remains concerned about "agropiracy" and thus is pushing for international recognition of geographic indicators (GIs), although, he detected, the USG does not see a problem in this regard. DG Teti believes that IPR matters should be raised from a technical to a political level and that the timing is right for a joint "commission" to elevate them to their proper place. "Would the Italian Government be willing to invest more financial resources" in such an undertaking," DAS Stewart asked? Because of the link between IPR and national R&D capabilities, "yes," replied DG Teti.

21. (SBU) When asked about the apparent lack of penalties for IPR crimes, DG Teti said that judges do not understand that such transgressions are not "victimless." He again recommended that the IPR issue be handled as a political one and that political leaders, not just judges, receive training on the various dimensions of IPR.

22. (U) On pharmaceuticals, DAS Stewart voiced concern about the perceived lack of access by American companies to Italian authorities and regulators, citing cases in which innovative makers of new drugs could have benefited Italian consumers markedly, but were hampered by delays of 10-17 months. He also stated that one American firm wishes to invest a quarter of a billion dollars, but is concerned about investment disincentives that exist in the Italian market. DG Teti, with some sympathy to DAS Stewart's

point, said Ireland's own exports had burgeoned, thanks to the exports of U.S. pharmaceutical firms that had invested in Ireland. DG Teti asked if he could be provided with practical, or pilot, cases/examples to bring to the attention of his government contacts to determine where U.S. firms are encountering problems in finalizing their investment plans in Italy.

23. (U) Turning to the TABD, DAS Stewart asked how trade partners such as the United States and Italy might get the European Commission to accelerate a reduction of barriers.

DG Teti believes that a "bilateral" (i.e., U.S.-Italian) system could help, given the difficulty in coordinating E.U. policies and regulations. He also finds merit in individual country efforts, such as Spain's recent move to reduce the value-added tax on media products from 20 percent to four percent.

TREASURY POLICE

124. (U) General Nino Di Paolo, Chief of Staff, Treasury Police (Guardia di Finanza), received DAS Stewart at the group's headquarters with an honor guard. General Di Paolo said that illegal activities have grown more complex, posing serious challenges to financially-constrained law enforcement entities. (For example, cigarette smugglers have turned to piracy.) Nonetheless, the GOI is better prepared to meet these. He applauds new, more effective legislation, which, together with directives from Economy and Finance Minister Tremonti, gives enforcers more tools to counter illegal activities. His agency has also undergone a reorganization, a reflection of the importance that the GOI attaches to IPR enforcement. He also welcomes Italians' new attitude toward IPR: they better understand the need for enforcement.

125. (U) General Di Paolo noted that, for the first time, the Guardia di Finanza is assigning officers to Italian diplomatic missions, beginning in Washington. This, he said, is consistent with the will of Parliament. He welcomes intelligence sharing and cooperation with the USG on container security.

126. (U) DAS Stewart thanked the Guardia di Finanza for its outstanding contributions to anti-piracy efforts and stressed the importance of educating the public on the interrelationships among criminal elements, including those who counterfeit products in violation of IPR laws. He said that, as a result of piracy, both the United States and Italy are losing billions of dollars in potential revenues, which might be used to improve public welfare.

127. (SBU) The General placed a premium on not just countering criminal organizations, but also teaching citizens that "cloning" someone else's work without permission has deleterious consequences. He urged "360-degree" education, engaging all government ministries. When asked whether GOI agencies had encountered software piracy problems, the General responded that a project on this serious question has been undertaken previously for all public administration to ensure compliance with the norms and that all software use is "legitimate."

128. (U) With respect to the lack of significant jail time or fines for IPR crimes, General Di Paolo indicated that it is a matter that Parliament, which reflects popular beliefs, needs to address. He also prefers "fiscal" rather than "criminal" penalties in such cases, given law enforcement's funding limitations. What matters for each country, he said, is to achieve the ultimate goal of IPR protection, even if it is by different means.

PRIME MINISTER'S OFFICE

129. (SBU) DAS Stewart met with Mauro Masi, Deputy Secretary General (DSG), Office of the Prime Minister, for a wide-ranging discussion on trans-Atlantic commerce. DAS Stewart highlighted the "barrier-free trade initiative" as one of Secretary of Commerce Don Evans's top priorities and

SIPDIS mentioned that the Irish, Danish, Dutch, British, and Swedish Governments have expressed interest in it.

However, due to political sensitivities, European governments, and both business communities, rather than the USG, should be seen as driving such an initiative. DAS Stewart also said that the TABD has embraced the idea and will raise this issue at the upcoming U.S.-E.U. Summit. He said that harmonization of standards (e.g., in accounting) and regulations should be a central focus of the United States and Europe, given their large impact on trade. The above would be consistent with the goals of the Doha round of international trade negotiations and E.U. Lisbon conference on competitiveness goals.

130. (SBU) DSG Masi expressed keen interest in the barrier-free trade initiative and in the TABD recommendations. He asked for background on U.S. recommendations and said that he will bring them to the attention of Under Secretary Gianni Letta (Prime Minister's Office), Minister of Foreign Affairs Franco Frattini, and Minister of Economy and Finance Tremonti.

131. (U) DAS Stewart reiterated the need to solve remaining problems in the already strong U.S.-Italian commercial relationship, citing IPR enforcement and pharmaceuticals policy concerns. DSG Masi explained that the systemic independence of judges accounts for the relatively small number of sentences and suggested that he will speak to Minister of Justice Roberto Castelli about USG concerns. He also recommended that the USG and GOI approach the Italian magistrates' association on this matter. Nonetheless, he thinks that law enforcement entities (the Defense Ministry's Carabinieri, the Interior Ministry's Polizia di Stato, and the Economy and Finance Ministry's Guardia di Finanza) are doing a great job, given their challenges and constrained human and financial resources. DSG Masi also said that Italy needs a law for IPR protection on the Internet.

132. (SBU) Regarding USG concern about the lack of pharmaceutical companies' access to Italian agencies beyond the Health Ministry (DAS Stewart again noted that drug policy is not just a health issue, but also one with major fiscal implications), DSG Masi said that he can be contacted directly by the concerned firms and that he will seek to facilitate their access to other Ministries. He is sensitive to American company interest in investing in Italy.

MINISTRY OF CULTURE

133. (U) Minister Fabio De Nardis, Diplomatic Adviser to the Minister of Culture, and Ornella Giustini and Giuseppina Spina, Office of Intellectual Property, briefed DAS Stewart on "historic," new Italian legislation, including the Urbani Law, named after Minister of Culture Giuliano Urbani. They maintain that Italy is much more aware of the need to protect intellectual property and better equipped than before to fight piracy. In keeping with new Italian laws and E.U. directives, the Culture Ministry has also been reorganized.

134. (SBU) DAS Stewart thanked the Ministry for its continuing support in emphasizing the seriousness of IPR violations and asked for its assistance in getting magistrates to make the connection between piracy and crime. Italian laws appear to be strong, but need to be more widely enforced. Asked what could be done to counter illegal products from China, DAS Stewart urged his interlocutors to encourage their Ministers to press E.U. counterparts. The Ministry representatives also promoted the idea of establishing protections for all intellectual property on the Internet, with penalties for copyright violators. Speaking of fines, the officials favor "administrative and monetary" over "criminal" penalties.

135. (SBU) On business and game software, DAS Stewart indicated that, although American business appreciates the GOI's exemption from the onerous stickering (bollino) requirement, U.S. firms find waiver application procedures burdensome. Moreover, American companies are concerned that their legitimate products are being seized by mistake after removal of duly obtained stickers.

136. (SBU) Would the Ministry be willing to exempt American firms from this administrative procedure, DAS Stewart asked? At first, the Ministry representatives implied that there is little they can do, given that IPR legislation is already in force. However, later during the discussion, when DAS Stewart inquired whether the Ministry can meet with BSA to discuss the stickering issue, the officials were receptive and agreed to review any BSA position paper on this matter. A significant and encouraging development, the officials reasoned that there is time and GOI willingness to look at the stickering issue again, given that the Ministry must draft implementing regulations.

137. (SBU) At the end of the meeting, while the Ministry officials expressed satisfaction with anti-piracy progress, they also raised Italy's inclusion on the 301 Watch List with respect to IPR protection and industrial impact. DAS Stewart and an Embassy officer assured them that the USG prepares the list after a careful and thoughtful interagency review.

138. (U) This cable has been cleared by DAS Stewart.